

CCRB INVESTIGATIVE RECOMMENDATION

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|--|---|--|---|------------------------------------|---------------------------------|
| Investigator: Gabriella Carpenter | Team: Squad #5 | CCRB Case #: 201800340 | <input type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Monday, 01/15/2018 10:20 AM | Location of Incident: East 233rd Steet and Carpenter Avenue; 47th Precinct stationhouse | Precinct: 47 | 18 Mo. SOL 7/15/2019 | EO SOL 7/15/2019 | |
| Date/Time CV Reported Mon, 01/15/2018 4:24 PM | CV Reported At: CCRB | How CV Reported: Call Processing System | Date/Time Received at CCRB Mon, 01/15/2018 4:24 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |

| Subject Officer(s) | Shield | TaxID | Command |
|-----------------------|--------|--------|---------|
| 1. POM Luis Rodriguez | 05681 | 934124 | 047 PCT |
| 2. SGT Claudio Coca | 01386 | 945596 | 047 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|-------------------------|-----------|--------|----------|
| 1. POF Katherine Tejada | 20195 | 963297 | 047 PCT |
| 2. POM Jose Morejon | 11771 | 956113 | 047 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|----------------------|---|-----------------------------|
| A.POM Luis Rodriguez | Abuse: Police Officer Luis Rodriguez threatened to arrest § 87(2)(b) | |
| B.SGT Claudio Coca | Abuse: Sergeant Claudio Coca did not process § 87(2)(b) s complaint regarding an officer. | |

Case Summary

§ 87(2)(b) filed a complaint with the CCRB via the Call Processing System and via the website on January 15, 2018.

On January 15, 2018, at approximately 10:20 a.m., § 87(2)(b) was pulled over by Police Officer Luis Rodriguez of the 47th Precinct. § 87(2)(b) could not immediately provide his ID because it was on the passenger side of his car, and PO Rodriguez allegedly threatened to arrest § 87(2)(b) if he had to ask him for his license again (**Allegation A: Abuse of Authority**, § 87(2)(g)). PO Rodriguez wrote § 87(2)(b) four summonses. § 87(2)(b) left the scene and drove to the 47th Precinct to file a complaint about the incident. He spoke to Sergeant Claudio Coca of the 47th Precinct about the complaint but Sgt. Coca did not file it for him (**Allegation B: Abuse of Authority**, § 87(2)(g)).

There is no video evidence in this case.

Findings and Recommendations

Allegation A: Abuse of Authority: Police Officer Luis Rodriguez threatened to arrest § 87(2)(b)

It is undisputed that PO Rodriguez stopped § 87(2)(b)'s vehicle and wrote him three summonses for traffic infractions and one summons for failing to obey his orders.

§ 87(2)(b) testified that another officer pulled him over minutes before PO Rodriguez stopped him (BR 01 and BR 02). § 87(2)(b) threw his license onto the passenger seat and drove less than a block, then PO Rodriguez stopped him. PO Rodriguez asked for § 87(2)(b) license approximately nine times, but § 87(2)(b) could not reach it where it was on the passenger side, and PO Rodriguez did not give § 87(2)(b) a chance to explain why he was not providing it. PO Rodriguez then opened § 87(2)(b)'s door and said, "The next time I ask you for your license, you're going to be in cuffs." Another officer came over and escorted § 87(2)(b) to the passenger side so that he could get his license.

PO Rodriguez testified that § 87(2)(b) initially refused to provide his license because he did not think that he should have been stopped (BR 03). After refusing, § 87(2)(b) tried to open his door into PO Rodriguez without explaining why he was trying to get out of the car. PO Rodriguez shut the door. After § 87(2)(b) refused to provide his license several more times, PO Rodriguez told him that the other option was for him to go to the 47th Precinct stationhouse to be identified; PO Rodriguez did not say he would arrest § 87(2)(b) and he did not think that he could have. After PO Rodriguez asked for § 87(2)(b)'s license approximately nine times, § 87(2)(b) told him that it was on the passenger side, and PO Rodriguez let him get out of the car to find it.

When issuing a summons, officers must request proof of identify from the violator. If doubt concerning the violator's identity exists, officers must remove the violator to the stationhouse for investigation. Patrol Guide Procedure 209-09 (BR 07).

§ 87(2)(g)

Allegation B: Abuse of Authority: Sergeant Claudio Coca did not process § 87(2)(b)'s complaint regarding an officer.

It is undisputed that § 87(2)(b) went to the 47th Precinct stationhouse after the traffic stop and tried to file a complaint about PO Rodriguez.

§ 87(2)(b) testified that he was speaking to PO Morejon (identified from Sgt. Coca's statement) about his complaint when PO Rodriguez entered the stationhouse and walked by him. Sgt. Coca came over and § 87(2)(b) started to explain what had happened with PO Rodriguez. While he was speaking, PO Rodriguez walked over and stood behind § 87(2)(b) then repeatedly interrupted § 87(2)(b)'s narrative to provide his own version of what happened. Sgt. Coca told § 87(2)(b) to have a seat. After 40 minutes to an hour, § 87(2)(b) called 911 and was transferred to IAB. Shortly after, Sgt. Coca approached § 87(2)(b) and told him that he did not need to call anyone. After another 30 to 40 minutes, PO Morejon gave § 87(2)(b) a piece of paper that said, "311 / 1-800-341-2272 /40 Rector St. / 2nd Fl. Manhattan / NY." The officers did not offer any further assistance, so § 87(2)(b) left. As he was leaving, he saw a poster for the CCRB in the stationhouse and used that information to file a complaint.

PO Rodriguez testified that he was in the traffic office in the stationhouse when an officer informed him that § 87(2)(b) was there to make a complaint. PO Rodriguez said that that was fine and did not go out to speak to § 87(2)(b). § 87(2)(b) saw PO Rodriguez walking through the stationhouse later and yelled that he would not speak to PO Rodriguez, though PO Rodriguez had not tried to speak to him. PO Rodriguez told § 87(2)(b) that he was welcome to file a complaint but that it would not affect the disposition of his summonses, then he walked away; PO Rodriguez did not have any further conversation with § 87(2)(b) and § 87(2)(b) never asked him to help him file a complaint. PO Rodriguez saw § 87(2)(b) speaking to Sgt. Coca later, then § 87(2)(b) left the stationhouse yelling about his complaint. Sgt. Coca asked PO Rodriguez for § 87(2)(b)'s pedigree information for the command log because § 87(2)(b) left without filing a complaint or providing all of the information that Sgt. Coca needed to write a command log entry.

Sgt. Coca testified that § 87(2)(b) initially spoke to PO Morejon about filing a complaint (BR 04). PO Morejon told § 87(2)(b) that he could file the complaint online, in person, or over the phone, and § 87(2)(b) opted to file the complaint in person. PO Morejon also provided § 87(2)(b) with the CCRB's contact information on a piece of paper without Sgt. Coca telling him to. After a few minutes, Sgt. Coca tried to interview § 87(2)(b) but § 87(2)(b) would not provide a narrative of what happened, so Sgt. Coca asked him to have a seat while he downloaded the complaint report. About 10 minutes after asking § 87(2)(b) to wait, Sgt. Coca received a call from IAB because § 87(2)(b) had called them and complained that he had been waiting for 40 minutes. About five minutes after speaking to IAB, Sgt. Coca found and printed the complaint report and took it to the waiting area to fill it out with § 87(2)(b) but § 87(2)(b) had already left with the information PO Morejon provided.

PO Morejon is on indefinite military leave and could not be interviewed regarding this complaint (BR 09).

§ 87(2)(b) provided the piece of paper he was given at the stationhouse that says, "311 / 1-800-341-2272 /40 Rector St. / 2nd Fl. Manhattan / NY" (BR 05). Some of the information is correct and some is outdated: complainants can be transferred to the CCRB through 311 or can reach the CCRB directly at 1-800-341-2272, but the address listed is no longer correct.

Sgt. Coca made a command log entry stating that he interviewed § 87(2)(b) then asked him to have a seat (BR 06). After waiting approximately 10 minutes, § 87(2)(b) called IAB and reported that he had been waiting 40 minutes. § 87(2)(b) was asked if he wanted to do a report or call the CCRB himself and he elected to do the report at the stationhouse. While Sgt. Coca was finding the form on his computer, § 87(2)(b) began to record on his phone, became impatient, and left, taking the CCRB phone number with him.

If a civilian alleges misconduct by a police officer and tries to file a complaint report in person, the officer receiving the complaint must interview the complainant and provide them with a civilian complaint report to fill out. If the civilian does not want to immediately file a complaint, the officer must provide a civilian complaint report and inform the civilian of the ways they can file the report. Patrol Guide Procedure 207-31 (BR 08).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b) § 87(2)(b)
§ 87(2)(g)
- PO Rodriguez has been of member of the service for 14 years and has had 18 other allegations pleaded against him in eight cases, including the following: a physical force allegation, a vehicle search allegation, a discourtesy (word) allegation, two discourtesy (action) allegations, and a seizure of property allegation were substantiated against him in CCRB 200412557. § 87(2)(g):
 - A threat of arrest allegation was pleaded against him in CCRB 201201740 that was unsubstantiated.
- Sgt. Coca has been a member of the service for 10 years and has had three other allegations pleaded against him in two cases, none of which were substantiated § 87(2)(g)
§ 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was returned from mediation on April 20, 2018.
- This report was submitted pending a FOIL request sent on May 1, 2018 to the comptroller's office for any notice of claim filed in regard to this incident.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date